

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDWARD LONG

Plaintiff

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER MARK
HOLDER OF THE NEW YORK
CITY POLICE DEPARTMENT AND DETECTIVE
LUCIOUS JOHNSON OF THE NEW YORK
CITY POLICE DEPARTMENT

Defendant(s),

**AMENDED
COMPLAINT AND
JURY DEMAND**

CV-09-1050 (ARR) (VVP)

PRELIMINARY STATEMENT

1. This is an action for monetary damages (compensatory and punitive) against THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICER MARK HOLDER, DETECTIVE LUCIOUS JOHNSON and members of the NEW YORK CITY POLICE DEPARTMENT arising out of the false arrest, false imprisonment of EDWARD LONG.

2. On March 16, 2006 and April 6, 2006, POLICE OFFICER MARK HOLDER and DETECTIVE LUCIOUS JOHNSON members of the NEW YORK CITY POLICE DEPARTMENT acting under the color of state law, intentionally and willfully subjected plaintiff EDWARD LONG to, inter alia, false arrest, false imprisonment, detention, for acts of which plaintiff were innocent. This unconstitutional and unreasonable seizure of the plaintiffs was in violation of plaintiffs' rights under the Fourth and Fourteenth Amendments of the United States Constitution.

3. The Plaintiff, EDWARD LONG, through his attorney, complaining of the defendants, respectfully allege:

JURISDICTION

4. This action is brought under 28 USC §§ 1331 and 1343, 42 §§ 1983, 1985 and 1988 and the Fourth, Fifth, and Fifteenth Amendments to the Constitution of the United States. This Court has supplemental jurisdiction over the state law claims under 28 USC § 1367.

5. The amount in controversy exceeds \$75,000.00 excluding interest and costs.

6. Venue is laid within the United States District Court for the Eastern District of New York in that the incidents alleged in the complaint occurred in the Eastern District of New York, particularly Kings County.

PARTIES

7. Plaintiff, at all times relevant, resided in the County of Kings, City and State of New York.

8. That at all times hereinafter mentioned, and upon information and belief, the defendant, THE CITY OF NEW YORK, was at all times relevant, a municipal corporation duly organized and existing under the laws, statutes and charters of the State of New York.

9. THE NEW YORK CITY POLICE DEPARTMENT was at all times relevant, an agency of the defendant THE CITY OF NEW YORK.

10. That at all times hereinafter mentioned, and on information and belief, the defendants POLICE OFFICER MARK HOLDER and DETECTIVE LUCIOUS JOHNSON were at all times relevant, employees of the defendant CITY OF NEW YORK, as a police officer employed by the defendant, THE NEW YORK CITY POLICE DEPARTMENT.

11. At all times mentioned herein, defendants were acting under color of state and local law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages of the City of New York and the State of New York.

12. That at all times hereinafter mentioned, and upon information and belief, the individual defendants are named both personally and in their official representative capacities as a police officer employed by the defendants, THE CITY OF NEW YORK

and THE NEW YORK CITY POLICE DEPARTMENT. And that each and all of the acts of the individual defendants alleged herein were done by the individual defendants and each of them under cover and pretense of the statutes and laws of the State of New York, and under and by virtue of their authority as police officers and employees of defendant, THE CITY OF NEW YORK.

13. That as a result of the foregoing, the defendant, THE CITY OF NEW YORK, is liable for the individual defendant's acts pursuant to the doctrine of "respondeat superior."

NOTICE OF CLAIM

14. Within 90 days of the occurrence of the incident, plaintiff filed written Notices of Claim with the City of New York. This matter has not been settled or otherwise disposed of.

FACTUAL ALLEGATIONS

15. On March 16, 2006, members of the New York City Police Department, including defendant POLICE OFFICER MARK HOLDER in the vicinity of Eastern Parkway and Troy Avenue, Brooklyn, New York forcefully arrested plaintiff and held him in custody against his will. On April 6, 2006, defendant DETECTIVE LUCIOUS JOHNSON in the vicinity of 938 Eastern Parkway forcefully arrested plaintiff and held him against his will.

16. As a result, defendant imprisoned and detained plaintiff, restrained him of his liberty, without any right to do so, and against the will of the plaintiff.

17. Plaintiff was in custody for approximately one day on each arrest. Following each arrest plaintiff was strip searched.

18. The arrest of the plaintiff was committed by the defendants without legal process and without probable cause.

19. Defendants acted maliciously and intentionally.

20. As a direct and proximate result of the acts of defendants, plaintiff suffered severe and permanent injuries including but not limited to, embarrassment, humiliation, loss of liberty, loss of property, emotional distress and mental anguish.

FIRST CAUSE OF ACTION
(FALSE ARREST AND ILLEGAL IMPRISONMENT)

21. Paragraphs 1 through 20 are herein incorporated by reference.

22. Defendants subjected plaintiffs to false arrest, imprisonment, and deprivation of liberty without probable cause.

23. Defendants have deprived plaintiff of his civil, constitutional and statutory rights and have conspired to deprive him of such rights and are liable to plaintiff under 42 U.S.C. §§ 1983 and 1985 and the New York State Constitution.

24. As a result of the false arrest, imprisonment, and deprivation of liberty, plaintiff was damaged in the sum of One Million (\$1,000,000.00) Dollars.

SECOND CAUSE OF ACTION
(MUNICIPAL LIABILITY)

25. Paragraphs 1 through 24 are incorporated herein by reference.

26. Defendant CITY OF NEW YORK is liable for the damages suffered by the plaintiff as a result of the conduct of its employees, agents, and servants.

27. Defendant CITY OF NEW YORK knew or should have known of their employees', agents', or servants' propensity to engage in the illegal and wrongful acts detailed above.

28. Upon information and belief, defendants and their supervisors have in the past falsely arrested individuals without probable cause, and made, and allowed other fellow police officers to make false entries in official police department records to cover up and hide their wrongful conduct.

29. Defendant CITY OF NEW YORK has failed to take steps necessary to discipline, train, supervise or otherwise correct the improper, illegal conduct of the individual defendants in this and in similar cases involving misconduct.

30. Defendant CITY OF NEW YORK has damaged the plaintiff by its failure to properly supervise, train, discipline, review, remove, or correct the illegal and improper acts of its employees, agents or servants in this and in similar cases involving police misconduct.

31. Defendants subjected plaintiff to false arrest and false imprisonment.

32. Plaintiff has been damaged as a result of the wrongful, negligent and illegal acts of the defendant CITY OF NEW YORK in the amount of One Million (\$1,000,000.00) Dollars.

THIRD CAUSE OF ACTION
(FOURTH AMENDMENT)

33. Paragraphs 1 through 32 are incorporated herein by reference.

34. Defendants POLICE OFFICER MARK HOLDER and DETECTIVE LUCIOUS JOHNSON illegally arrested plaintiff by subjecting him to false arrest, imprisonment and deprivation of liberty with probable cause.

35. That as a result of the foregoing, the plaintiff has been deprived of his following rights, privileges and immunities secured him by the constitution and the laws of the United States: the right to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments; the rights of the plaintiff not to be deprived of life, liberty or property without due process of law under the Fourth and Fourteenth Amendments; and the right to be free from a deprivation of his civil rights in violation of the statutes made and provided.

36. Plaintiff has been damaged as a result of the wrongful, negligent and illegal acts of the defendant CITY OF NEW YORK in the amount of One Million (\$1,000,000.00) Dollars.

FOURTH CAUSE OF ACTION
(FOURTEENTH AMENDMENT)

37. Paragraphs 1 through 36 are incorporated herein by reference.

38. Defendant POLICE OFFICER MARK HOLDER and DETECTIVE LUCIOUS JOHNSON illegally arrested plaintiff by subjecting him to false arrest, imprisonment and deprivation of liberty without probable cause.

39. That as a result of the foregoing, the plaintiff has been deprived of his following rights, privileges and immunities secured him by the constitution and the laws of the United States: the right to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments; the rights of the

plaintiff not to be deprived of life, liberty or property without due process of law under the Fourth and Fourteenth Amendments; and the right to be free from a deprivation of his civil rights in violation of the statutes made and provided.

40. Plaintiff has been damaged as a result of the wrongful, negligent and illegal acts of the defendant CITY OF NEW YORK in the amount of One Million (\$1,000,000.00) Dollars.

WHEREFORE, each plaintiff demands judgment against the defendants, jointly and severally as follows:

- A. In favor of each plaintiff in the amount of One Million (\$1,000,000.00) Dollars on each of the plaintiff's Causes of Action;
- B. Awarding each plaintiff punitive damages in the amount of One Million (\$1,000,000.00) Dollars on each of the plaintiff's Causes of Action;
- C. Awarding each plaintiff reasonable attorney's fees, costs and disbursements of this action;
- D. Granting such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a jury trial.

Dated: New York, New York
December 23, 2009

PLAINTIFF

By: /s/ Brian L. Bromberg
Brian L. Bromberg
One of Plaintiff's Attorneys

Attorneys for Plaintiffs
Jonathan A. Fink
Fink & Katz, PLLC
40 Exchange Place, Suite 2010
New York, New York 10005
Telephone: 212-385-1373
Fax: 212-202-4036

Brian L. Bromberg
Bromberg Law Office, P.C.
40 Exchange Place, Suite 2010
New York, New York 10005
Telephone:212-248-7906
Fax:212-248-7908

Certificate of Service

I, Brian Bromberg, an attorney, hereby certify that on December 23, 2009, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

Brian L. Bromberg brian@brianbromberg.com

Jonathan Anthony Fink jfink@finkkatz.com, philkatz@finkkatz.com

David M. Hazan dhazan@law.nyc.gov

Prathyusha Bandi Reddy preddy@law.nyc.gov

Johana Castro jcastro@law.nyc.gov

Diep Nguyen dinguyen@law.nyc.gov

Dated: December 23, 2009

/s/ Brian L. Bromberg
Brian L. Bromberg

Brian L. Bromberg
Bromberg Law Office, P.C.
40 Exchange Place, Suite 2010
New York, NY 10005
Tel: (212) 248-7906